

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

DATE: **DEC 11 1986**

SUBJECT: PCB Decontamination of Machinery

FROM: *Albert J. Mullin*
Albert J. Mullin, Ch.E.
Toxic Substances Compliance Section

TO: Joseph Rotola
Response and Prevention Branch

Your inquiries regarding TSCA regulations governing PCB decontamination and sale of machinery at the Bossert Manufacturing Company, New York are answered as follows:

A. PCB Contaminated Hydraulic Systems

There are two options for handling PCB contaminated hydraulic systems.

1. Hydraulic systems with any detectable level of PCBs below 50 ppm in the hydraulic fluid may be distributed in commerce only for the purpose of disposal (attachment 1).
2. The second option is to keep the hydraulic systems in storage for reuse until the PCB regulations are amended to allow the distribution in commerce of hydraulic systems with less than 50 ppm PCBs. Such an amendment is currently under development.

B. Machinery With PCB Surface Contamination

Surface PCB contamination of machinery is assumed to be the result of a leak or spill. Current TSCA enforcement policy, based on an administrative law judge decision, requires that PCB spills must be cleaned to the lowest practicable level of PCBs.

The decontamination procedures for PCB contaminated surfaces of movable machinery given in 40 CFR §761.79 will result in acceptable cleanup. This procedure requires that PCB contaminated surfaces be decontaminated by swabbing the surface with a solvent containing less than 50 ppm PCBs and having a PCB solubility of five percent or more by weight.

Attachment:

Letter to Lt. General Vincent M. Russo from
Suzanne Rudzinski and John Neylan dated
August 28, 1986.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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Pesticides & Toxic
Substances Branch

Lt. General Vincent M. Russo
Director, Defense Logistics Agency
Cameron Station
Alexandria, VA 22304-6100

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Director, ESD Division

OFFICE OF
PESTICIDES AND TOXIC SUBSTANCES

Dear Lt. General Russo:

On July 8, 1986 personnel from the Office of Compliance Monitoring (OCM) and Office of Toxic Substances (OTS) met with Department of Defense/Defense Logistics Agency (DOD/DIA) representatives concerning DOD/DIA requests to sell hydraulic equipment containing polychlorinated biphenyls (PCBs). At that meeting, EPA reiterated that current regulations prohibit the distribution in commerce of hydraulic equipment containing PCBs without an exemption under section 6(e)(3)(B) of TSCA. This letter clarifies our interpretation of the regulations, and discusses options available to DOD.

As we understand the situation, DOD/DIA has large stockpiles of equipment which it is currently storing "for reuse." Included in this equipment are hydraulic systems containing between 2 ppm (detectable level) and less than 50 ppm PCBs. DOD/DIA wants to sell these hydraulic systems for reuse.

The PCB regulations at 40 CFR 761.30(e) authorize the continued use of hydraulic systems containing less than 50 ppm PCBs. However, the equipment may not be distributed in commerce for reuse under current regulations. This is due to a change in the concentrations of PCBs to which the PCB prohibitions apply. The change was made in the Federal Register of July 10, 1984; that rule became effective on October 1, 1984. Whereas the prohibitions used to apply generally "to any chemical substances and combinations of substances that contain 50 ppm (on a dry weight basis) or greater of PCBs," the prohibitions now apply to "any PCB or PCB Item regardless of concentration." (See 40 CFR 761.20(a), (b), and (c)).

Specifically, section 761.20(c) states that "no person may process or distribute in commerce any PCB, or any PCB item regardless of concentration, for use within the United States, or for export from the United States without an exemption. . . ."

This means that, unless the distribution in commerce of PCBs or a PCB Item is authorized elsewhere in the regulations, they can not be sold for reuse. The distribution in commerce of hydraulic systems for purposes of reuse is currently not authorized.

As we indicated in the discussion with your staff, the Agency is planning to amend the PCB regulations to allow the distribution in commerce of PCBs at concentrations less than 50 ppm, provided that they were legally manufactured, processed, distributed in commerce, or used before October 1, 1984. On August 7, 1986, the Agency entered into a settlement agreement on two suits for judicial review of the July 10, 1984 rule. That agreement provides that EPA will propose this amendment by March 7, 1987, and that a final rule will be issued by December 7, 1987.

Until that the amendment is issued, however, hydraulic systems containing PCBs at concentrations of 2 ppm or greater (but less than 50 ppm, since there is no use authorization for systems containing 50 ppm or more PCBs), may only be distributed in commerce if one of the following criteria are met:

- (1) The Agency grants an exemption by rulemaking. In light of the fact that the Agency will be amending the rule, this option is not recommended because the Agency can grant exemptions from the PCB prohibitions only by rulemaking. Such a rulemaking will take about the same amount of time as the amendment itself.
- (2) The equipment was sold for purposes other than resale prior to July 1, 1979 (that is, it was already in use), and it is distributed in commerce only in a totally enclosed manner, and only within the United States (see 40 CFR 761.20(c)(1)). The operative condition here is the "totally enclosed manner" criterion, defined at section 761.3 as "any manner that will ensure no exposure of human beings or the environment to any concentration of PCBs." In the case of hydraulic systems, this criterion is very difficult to meet since the equipment is prone to leaking during normal operation. Even if the equipment were drained and any remaining residue in the system could be contained, the outer surfaces of the systems are likely to have been contaminated with PCBs during past use. It may, however, be possible to make a showing that any PCB fluid in the system would be contained, and the outer surfaces of the systems could be cleaned to levels that are considered by the Agency to be PCB-free. This would probably prove to be a difficult and expensive task.
- (3) The systems can be distributed in commerce for purposes of disposal (see section 761.20(c)(4)). As discussed with your staff, this includes sale of drained systems for scrap metal (provided that no component of the system is to be reused in its present function).

The remaining option available to DOD/DLA is to keep the systems in storage for reuse until the amendment to the PCB regulations is issued. We understand, however, from discussions with DLA staff that the reason DOD/DLA wants to sell the equipment is that the storage space is needed for other items.

We regret that no genuinely favorable option is currently available. Our staffs are available to advise you further on the options discussed above. Please contact Richard Lashier or Jane Kim of OTS at (202) 382-3933, or Mike Calhoun of (OCM) at (202) 382-7835, if you have any further questions.

Sincerely,

Suzanne Rudzinski

Suzanne Rudzinski, Chief
Chemical Regulation Branch

John J. Neylan III
John J. Neylan III
Director

Compliance Division

cc: Regional Division Directors